

2016 AMENDMENTS TO FLAGSTAFF CITY CODE
TITLE 12 CHAPTER 12-02-002-0003

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STORMWATER MANAGEMENT UTILITY SERVICE CHARGES

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12-02-002-0001 FINDINGS OF FACT

The City Council of the City of Flagstaff, Arizona makes the following findings of fact:

- (a) The professional engineering and financial analyses conducted on behalf of and submitted to the City properly assess and define the stormwater management problems, needs, goals, program priorities, costs of service, funding opportunities, and prospective service charge rate methodologies of the City.
- (b) Given the problems, needs, goals, program priorities, costs of service and funding opportunities identified in the professional engineering and financial analyses submitted to the City, it is appropriate to establish a schedule of stormwater management service charges, the revenues of which shall be dedicated specifically to the management, construction, maintenance, protection, control, regulation, use, and enhancement of stormwater systems and programs in the City of Flagstaff in concert with other water resource management programs.
- (c) Urban development in the City has radically altered the natural hydrology of the area and the hydraulics of stormwater systems, with many natural elements having been replaced or augmented by man-made facilities. Urban development continues, and the City recognizes that additional growth will result in further alteration of stormwater systems throughout the City. Therefore, a stormwater utility service area subject to stormwater service charges should encompass the entirety of the City of Flagstaff.
- (d) The stormwater needs in the City of Flagstaff include, but are not limited to, protecting the public health, safety, and welfare of its property owners, citizens, and residents, including the protection and enhancement of the City's water resources. Provision of stormwater management programs, services, systems, and facilities therefore renders and/or results in both service and benefit to individual properties, property owners, citizens, and residents of the City concurrently in a variety of ways as identified in the professional engineering and financial analyses, and thus justifies the billing of Stormwater Management Utility service charges to such properties, property owners, citizens, and residents and any other persons that presently are or may be in the future served or benefited by the programs, services, systems, and facilities provided by the Utility.
- (e) The City Council finds, concludes, and determines that a Stormwater Management Utility service charge is the most practical and appropriate means of properly delivering stormwater management services and benefits throughout the City, and the most equitable means to fund stormwater programs, services, systems, and facilities in the City, and that other funding mechanisms as described in the professional engineering and financial analyses

prepared for the City offer supplementary funding opportunities that will enable the City to improve the long-term adequacy and equity of funding but do not have sufficient revenue capacity to support the entirety of the projected stormwater management program.

(f) The City Council finds that credits against stormwater management utility service charges are an appropriate means of adjusting fees, rates, rentals, charges, fines, and penalties in certain cases and directs that such crediting mechanisms be addressed as part of the detailed cost of service and rate analyses necessary to implement the funding of the Stormwater Management Utility.

(Ord. 2003-02, Add, 03/18/2003)

12-02-002-0002 DEFINITIONS

Unless the context specifically indicates otherwise, the meaning of words and terms used in this article shall be as set forth below.

CREDITS. Credits shall mean a conditional reduction in the amount of a periodic stormwater management utility service charge or other fees, rates, rentals, charges, fines, and penalties to an individual property based on the provision and continuing presence of an effectively maintained and operational on-site stormwater system or facility, conservation or other protective easement, or continuing provision of a program or service or activity that reduces the Stormwater Management Utility's cost of providing stormwater management programs, services, systems and facilities.

DETACHED SINGLE-FAMILY RESIDENTIAL PROPERTY. For the purpose of calculating the periodic stormwater management utility service charge, property containing one (1) structure not attached to another dwelling unit and which contains one or more bedrooms, with bathroom and kitchen facilities, designed for occupancy by one family. Detached single-family residential property may include detached single-family houses, manufactured homes, and mobile homes located on one (1) or more individual lots or parcels of land. A property may be classified as a detached single-family residential property for billing purposes despite the presence of incidental structures associated with residential uses such as garages, carports, or small storage buildings, or the presence of a commercial use within the dwelling unit so long as such use does not result in additional impervious areas such as parking spaces, structures, or additions to the building which are used as offices, storage facilities, meeting rooms, classrooms, houses of worship, or similar non-residential uses. Detached single-family residential property shall not include structures used primarily for non-residential purposes, manufactured homes or mobile home parks where the land is owned by others than the owners of the manufactured homes or mobile homes, or multiple dwelling unit residential properties.

EQUIVALENT RATE UNIT. For the purpose of calculating the periodic stormwater management utility service charge applicable to any and every property in the City, except as may be altered by an exemption, credit, offset or other adjustment to the service charge, an Equivalent Rate Unit (or ERU) of 1,500 square feet of impervious area is hereby adopted and shall be applied to the calculation of periodic stormwater service charges. Each whole ERU, or increment thereof, shall be periodically charged the same amount unless the City Council shall specifically adopt varying charges per ERU to reflect differences in the cost of services and facilities by watershed, level or type of services and/or facilities provided, or other considerations deemed valid and appropriate by the City Council.

IMPERVIOUS AREA. Impervious area shall include, but is not necessarily limited to, any man-made structure or surface that is built or laid upon the natural surface of the land which has the effect of increasing, collecting, concentrating, re-directing, or otherwise altering stormwater runoff from land in a manner that increases peak stormwater runoff rates, the total volume of stormwater discharged from a property, or the pollutant loading contained in stormwater runoff, including but not limited to, those which reduce the infiltration of stormwater into the soil or reduce the natural evaporation and transpiration of stormwater from the land. Impervious area shall include, but is not limited to, rooftops, sidewalks, walkways, patio areas, driveways, parking lots, storage areas, compacted graveled roads or parking areas, and other surfaces which are subject to vehicle traffic to such extent that the stormwater runoff from the gravel surface increases or is collected, concentrated, re-directed, or otherwise altered from that which would prevail in a natural condition absent the presence of the graveled surface.

SPECIAL STORMWATER SERVICE FEES. Special stormwater service fees shall mean a service fee, other than a periodic stormwater management utility service charge, imposed upon a property or person to recover the cost of

providing special stormwater management services, systems, or facilities unique to individual properties or persons. Special stormwater service fees may include, but are not limited to, plan review and inspection fees related to alterations to the public stormwater systems or to stormwater systems and facilities located on private property; floodplain study review fees; flood hazard information letter preparation; floodplain use permit fees; drainage report review fees; grading, drainage, review and field inspections of construction site SWPPP's and paving plan review fees; surcharges applied to the periodic stormwater service charge to reflect special services and/or higher levels of service provided to any property or person; system development fees imposed at the time development occurs to recover a proportionate share of system capitalization costs; charges to recover the cost of abating, mitigating, or correcting a nuisance or non-complying condition, including but not limited to administrative costs associated therewith; charges to apportion a proportionate share of the cost of a system or facility serving one or more properties when such system or facility is constructed by the City in lieu of requiring the construction of on-site detention or other runoff control systems on the individual property(ies); and charges to apportion a proportionate share of the cost of a system or facility serving two or more properties when such system or facility is constructed by a private developer in lieu of complying with a requirement to construct an on-site detention or other runoff control system on each of the individual property(ies), in which case such charges shall be transferred by the City to the developer who built the system, or his or her assignees, less a reasonable deduction to recover the Stormwater Management Utility's cost of administering the special stormwater service fees.

STORMWATER MANAGEMENT UTILITY SERVICE CHARGE. Stormwater management utility service charge shall mean a periodic service charge imposed upon any and every property, lot, or parcel of land in the City of Flagstaff having more than 200 square feet of impervious area, for the purpose of funding costs related to stormwater management programs, services, systems, and facilities.

CONSTRUCTION SITE STORMWATER POLLUTION PREVENTION PLAN (SWPPP). A SWPPP is a plan that shall be prepared and implemented utilizing Best Management Practices, in accordance with the City's NPDES Phase II Stormwater General Permit requirements, during active construction, on sites that disturb one acre of land or more, which are intended to minimize pollutant runoff from a construction site.

(Ord. 2003-02, Add, 03/18/2003); (Ord. 2006-02, Amended 06/06/2006)

12-02-002-0003 SCHEDULE OF STORMWATER MANAGEMENT UTILITY SERVICE CHARGES AND FEES

There is hereby adopted the following schedule of stormwater management utility service charges and fees for the purpose of funding all or any portion of the City's Stormwater Management Utility programs.

(a) **STORMWATER MANAGEMENT UTILITY SERVICE CHARGE.** Unless amended, adjusted, or repealed by a City Council, a periodic stormwater management utility service charge is hereby imposed on any and every property, lot, or parcel of land in the City of Flagstaff, except as may be altered by an exemption, credit, offset or other adjustment to the service charge, in the following manner:

- 1) Detached single-family residential property, lots, or parcels of land shall be charged based on the following tiered system:

Tier	Impervious Area Range in Square Feet	Charge per Month
Tier 1	200--1,500	\$0.92
Tier 2	1,501-3,000	\$1.84
Tier 3	3,001-4,500	\$2.76
Tier 4	4,501-6,000	\$3.68
Tier 5	> 6,000	\$4.60

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Effective ~~June-July 1, 2007~~2016, the Stormwater Management Utility Service Charge shall be increased incrementally according to the following table: ~~each year through June January 1, 2010~~2017, for detached single-family.

Effective Date	Increase Amount	Tier 1	Tier 2	Tier 3	Tier 4	Tier 5
June-July 1, 2016 2007	\$0.40 \$0.08	\$1.02 \$1.38	\$2.04 \$2.76	\$3.06 \$4.14	\$4.08 \$5.52	\$5.40 \$6.90
June-January 1, 2017 2008	\$0.40 \$0.09	\$1.42 \$1.47	\$2.24 \$2.94	\$3.36 \$4.41	\$4.48 \$5.88	\$5.60 \$7.35
June-January 1, 2018 2009	\$0.40 \$0.09	\$1.22 \$1.56	\$2.44 \$3.12	\$3.65 \$4.686	\$4.88 \$6.24	\$6.40 \$7.80
June-January 1, 2019 2010	\$0.08 \$0.10	\$1.30 \$1.66	\$2.60 \$3.32	\$3.90 \$4.98	\$5.20 \$6.64	\$6.50 \$8.30
January 1, 2020	\$0.10	\$1.76	\$3.52	\$5.28	\$7.04	\$8.80

(Amended 04/17/2007; Ord. No. 2007-26).

- 2) All other properties, lots, or parcels of land not classified as detached single-family residential property, unless exempted pursuant to Section 12-02-002-0005, shall be charged ~~\$0.02~~\$1.38 per month for each Equivalent Rate Unit, or increment thereof, located on the property, lot, or parcel of land.

Effective ~~June-July 1, 2007~~2016, all other properties, lots, or parcels of land not classified as detached single-family residential property shall be charged according to the following table for each Equivalent Rate Unit, or increment thereof, located on the property, lot, or parcel of land:

Effective Date	Incremental Increase	Total Rate per ERU
June 1, 2007 July 1, 2016	\$0.40 \$0.08	\$1.02 \$1.38
June 1, 2008 January 1, 2017	\$0.40 \$0.09	\$1.42 \$1.47
June 1, 2009 January 1, 2018	\$0.40 \$0.09	\$1.22 \$1.56
June 1, 2010 January 1, 2019	\$0.08 \$0.10	\$1.30 \$1.66
January 1, 2020	\$0.10	\$1.76

- (b) SPECIAL STORMWATER SERVICE FEES. Unless amended, adjusted, or repealed by a City Council, the following special stormwater service fees shall be applied for the following services in the amount(s) defined:

1) Grading, Drainage, Paving Plan and SWPPP review	\$225 per sheet for a first and second review
	\$225 per sheet for all reviews thereafter
2) Grading and Drainage Field Inspection-sites less than 5 acres	\$60 per inspection
3) Grading and Drainage Field Inspection- sites larger than 5 acres	\$120 per inspection
4) SWPPP Inspection-sites less than 5 acres	\$60 per inspection
5) SWPPP Inspection-sites larger than 5 acres	\$120 per inspection
6) Annual Inspection of Structural Control	\$60 per inspection

7) Drainage Report Review	\$200 for first review
	\$100 for each review thereafter
8) Flood Hazard Information Letter	\$30 per letter
9) Floodplain Use Permit	\$45 per permit
10) Floodplain Study for FEMA Map Revision	\$2500 per Technical Data Notebook

12-02-002-0004 DISPOSITION OF STORMWATER MANAGEMENT UTILITY SERVICE CHARGES AND FEES

Stormwater management utility service charge and fee revenues shall be assigned and dedicated solely to the Stormwater Management Utility enterprise fund in the City budget and accounting system, which shall be and remain separate from other funds, and shall be used only to fund stormwater management services and facilities.

The services charges and fees paid to and collected by virtue of this Ordinance shall not be used for general or other governmental or proprietary purposes of the City, except to pay for costs incurred by the City in rendering services to the Stormwater Management Utility. Other than as described above, the charges and fees shall be used solely to pay for costs of operation, repair, maintenance, improvements, renewal, replacement, reconstruction, design, right-of-way and easement acquisition, and construction of public stormwater facilities and costs incidental thereto. (Ord. 2003-02, Add, 03/18/2003)

12-02-002-0005 STORMWATER MANAGEMENT UTILITY SERVICE CHARGE EXEMPTIONS AND CREDITS

A. No exception, credit, offset, or other reduction in stormwater service charges shall be granted based on age, race, tax status, economic status, or religion of the customer, or other condition unrelated to the stormwater utility's cost of providing stormwater services and facilities.

B. The stormwater management utility service charge shall not be collected in connection with any public street, public road, public highway or public alley, or any railroad right-of-way used exclusively for trackage and related safety appurtenances.

C. Credits against stormwater management utility service charges are an appropriate means of adjusting fees, rates, rentals, charges, fines, and penalties in certain cases and City Council directs that such crediting mechanisms be addressed as part of the detailed cost of service and rate analyses necessary to implement the funding of the Stormwater Management Utility. A credit manual shall be issued that will set forth the appropriate process and documentation to obtain such credits. Credit shall be made available to property owners for the following on-site stormwater controls or processes:

1. Engineered retention or other facilities for stormwater quality controls.
2. Engineered detention facilities for peak flow reduction and/or velocity reduction.
3. Dedication of conservation easements that prevent development of property.
4. Establishment and implementation of structured education programs for primary, secondary and college-level students on stormwater management and water quality issues.

D. Any credit allowed against the stormwater management utility service charge is conditioned on continuing compliance with the City's design and performance standards as stated in the credit manual and/or upon continuing provision of the systems, facilities, services, and activities provided, operated, and maintained by the property owner or owners upon which the credit is based. A credit may be revoked by the City at any time for noncompliance.

E. The City of Flagstaff has adopted a Credit Manual by Ordinance No. 2004-22, as amended by adoption of Ordinance No. 2006-17 and Ordinance No. 2015-07. (Ord. 2003-02, Added, 03/18/2003; Ord. 2006-02, Amended, 06/06/2006; Ord. 2006-17, 07/18/2006; Ord. 2015-07, Amended, 06/02/2015)

12-02-002-0006 COLLECTION OF STORMWATER MANAGEMENT UTILITY SERVICE CHARGES, BILLING, DELINQUENCIES AND PENALTIES

- (a) The Financial Services Director is hereby authorized to collect all stormwater management utility service charges and fees prescribed by this Ordinance.
- (b) Stormwater management utility services charges shall be added to and collected with the bills as rendered for water by the Financial Services Director and all of the rules and regulations promulgated by Financial Services shall apply to, and be effective in, the collection of such stormwater service charges. For those properties not utilizing the City's water utility, a separate bill shall be collected from the property owner of record.
- (c) All stormwater management utility service charges shall be due and payable on the due date specified on the bill, and if not paid within thirty (30) days thereafter will be considered delinquent. If such charges are not paid within ten (10) days after such delinquent date, water service shall be discontinued. Before discontinuing water service, the City shall give written notice to the property owner, of the discontinuance and an opportunity to appear before the Financial Services Director or his/her designee on any disputed matter relative to the delinquent account.
- (d) The stoppage of water service hereinbefore authorized for nonpayment of stormwater management utility service charges shall be in addition to the right of the City to proceed for the collection of such unpaid charges in a manner provided by law for the collection of a municipal claim.

(Ord. 2003-02, Add, 03/18/2003)

12-02-002-0007 APPEALS

Any property owner or customer who believes the provisions of this Ordinance have been applied in error may appeal in the following manner:

- (a) An appeal must be filed in writing with the City Stormwater Services Manager. In the case of utility service charge appeals, the appeal shall include a survey prepared by a registered land surveyor or professional civil engineer containing information on the total property area, the impervious surface area, and any other features or conditions which influence the hydrologic response of the property to rainfall events.
- (b) Using the information provided by the appellant, the Stormwater Services Manager shall conduct a technical review of the conditions on the subject property and respond to the appeal in writing within thirty (30) days.
- (c) In response to the appeal, the Stormwater Services Manager may adjust the stormwater service charge applicable to a property in conformance with the purpose and intent of this ordinance.
- (d) A decision of the Stormwater Services Manager, which is adverse to the appellant, may be further appealed to the City Manager within thirty (30) days of receipt of notice of the adverse decision. Notice of the appeal shall be served to the City Manager by the appellant, stating the grounds for the appeal. The City Manager shall issue a written decision on the appeal within thirty (30) days. All decisions by the City Manager shall be final.
- (e) The appeal process contained in the section shall be a condition precedent to an aggrieved customer seeking judicial relief. Any decision of the City Manager may be reviewed upon application to the Superior Court of Coconino County, filed within thirty (30) days of the date of service of the decision.

(Ord. 2003-02, Add, 03/18/2003)

12-02-002-0008 FLOOD INSURANCE

Floods caused by stormwater runoff may occasionally occur which exceed the capacity of stormwater facilities constructed and maintained by the Stormwater Management Utility. This Ordinance does not imply that property liable for service charges established in this Ordinance will always be free from stormwater flooding or flood damage. This Ordinance does not purport to reduce the need or the necessity for a property or building owner to obtain flood insurance.

(Ord. 2003-02, Add, 03/18/2003)

12-02-002-0009 SEVERABILITY

If any provision of this Ordinance shall be deemed or found to conflict with the Arizona Constitution, or to be pre-empted by state statute, then such provision of this Ordinance shall be deemed ineffective, but the remaining parts of this Ordinance shall remain in full force and effect.

(Ord. 2003-02, Add, 03/18/2003)

12-02-002-0010 CONFLICT WITH OTHER ORDINANCES

If any provision of this Ordinance shall conflict with the provisions of a prior ordinance of the City of Flagstaff, then the conflicting provision of the prior ordinance shall be deemed repealed and no longer in effect, and the provisions of this Ordinance shall govern.

(Ord. 2003-02, Add, 03/18/2003)

12-02-002-0011 COMMENCEMENT OF SERVICE CHARGES

That upon the effective date of this Ordinance, the Stormwater Management Utility shall, in addition to its purposes and responsibilities provided herein, be authorized to:

- (a) commence the collection of service charges authorized in Section 12-02-002-0003(a) in coordination with the billing process of the City's utility billing system beginning on July 1, 2003, and commence the collection of service charges as revised pursuant to Section 12-02-002-0003 (a) on the effective date of this Ordinance, and commence the collection of service charges pursuant to Section 12-02-002-0003 (a) effective **June 1, 2007**;
- (b) commence the collection of the special service fees authorized in Section 12-02-002-0003(b) upon the effective date of this Ordinance;
- (c) process appeals to the service charge and determine and apply credits, offsets, and other adjustment to the service charge to ensure conformance with the intent of this Ordinance; and
- (d) initiate collection processes as may be available to it to collect the service charges and any applicable delinquency and/or penalty for failure to pay such charges in a timely manner.

(Ord. 2003-02, Add, 03/18/2003); (Ord. No. 2006-02, Amended 06/06/2006)